THE HON'BLE SRI JUSTICE B. CHANDRA KUMAR

M.A.C.M.A. No. 645 of 2005

Judgment:

The claimant, aggrieved by the award dated 01.02.2005, passed in C No.1366 of 2001 by the Motor Accidents Claims Tribunal-cum-I Additior District Judge, Nalgonda, granting compensation of Rs.2,22,000/- out of tl claim of Rs.2,50,000/-, filed the present appeal seeking enhancement compensation.

The parties hereinafter will be referred to as they are arrayed befo the Tribunal for the sake of convenience.

The claimant is the husband of the deceased Laxmamma. His ca: is that on 23.01.1999 at about 8.00 AM the deceased along with other persons of their village went to Nampally for cutting the sweet oranges. Af completion of cutting work, oranges were loaded in the lorry and after it w reloaded all the labourers were returning in the same lorry. The accide occurred when the lorry reached the outskirts of P.A. Palli. It is alleged th the driver of the lorry drove the same in a rash and negligent manner a consequently the lorry dashed a culvert and turned turtle. The poli registered a case against the driver of the lorry.

The first respondent-owner of the lorry remained *ex parte*. Tl second respondent-Insurance Company filed counter denying tl averments made by the claimant. Their further case is that the driver of tl lorry was not having valid driving license at the time of accident.

The Tribunal framed the following issues.

1. Whether the deceased Bolligorla Laxmamma died in a mo accident due to rash and negligent driving by the driver of the lo bearing No.AP-16T-3994?

2. Whether the petitioner is entitled for compensation, if so, what is tl quantum of amount?
3. To what relief?

On behalf of the claimant, PWs.1 and 2 were examined and Exs.A1 A4 were marked. On behalf of the respondents none were examined but tl copy of insurance policy was marked as Ex.B1.

On appreciation of evidence, the Tribunal came to the conclusion th the accident occurred due to negligence of the lorry driver and this finding not in dispute in this appeal. On issue No.2, the Tribunal assessed tl compensation at Rs.2,22,000/- and the Tribunal came to the conclusion th the deceased was travelling in the lorry along with 30 passengers and sin it is a goods vehicle the deceased has to be treated as unauthoriz passenger and accordingly the Insurance Company is not liable indemnify the owner of the vehicle.

It is not in dispute that Ex.B1 policy covers the risk of six loading a unloading coolies. Now it has to be seen whether the deceased could l traveled as unauthorized passenger, whether the Insurance Company liable to pay compensation and whether the amount awarded by tl Tribunal is justified.

Sri M. Rajamalla Reddy, learned counsel for the claimant, submitt that the deceased was travelling as a coolie and she had cut the orange loaded and unloaded. His submission is that the deceased has to l treated as collie from the time she was engaged for the said work and till sl reaches to her house.

As seen from the evidence, it is clear that the deceased was engag for the purpose of cutting the oranges and loading into the lorry and she w returning after completion of the work. Her job does not end simply unloading the load at Hyderabad. She was taken from her village for tl said purpose and she was returning to her village in the same lor therefore it has to be presumed that she continued to be a coolie on the lo

till she reached her residence.

During the course of employment means from the time the employ started proceeding on the work till the employee reaches his house. A employee is deemed to be on his job from the time he starts from h residence and continues to be so while working in his office and even whi returning to his house till he reaches his house. Moreover the evidence record particularly the recitals of FIR reveals that the lorry turned turtle. means all the persons travelling in the lorry fell on the ground and the lo fell upon them and they sustained injuries. This means, after the deceas fell down from the lorry, touched the ground, the lorry fell upon her. Th moment a person is disconnected from the lorry and touched the ground h becomes a third party. At that time it cannot be said that the deceased w an unauthorized passenger. On this ground also the Insurance Compa has to pay compensation. Anyhow, if there are any violations, the Insuran Company should pay the amount to the claimant and then recover the sam from the owner of the vehicle.

As far as the quantum of compensation is concerned, the deceas was working as a coolie, therefore her income has to be taken at Rs.10 per day, which comes to Rs.3,000/- per month. If 1/3rd is deducted towar her personal expenses the loss of income would come to Rs.2,000/- p month and Rs.24,000/- per annum. If the same is multiplied with '18' th total loss of earnings would come to Rs.4,32,000/-. The claimant is al entitled to Rs.25,000/- towards funeral expenses and Rs.1,00,000/- towar loss of consortium. Thus, the claimant is entitled to Rs.5,57,000/-.

In view of the judgment of the Apex Court reported in **Rajesh v. Raj Singh**[1]**,** irrespective of the amount claimed by the claimants towar compensation it is the duty of the Courts to award just and reasonab compensation. However, the claimants have to pay the deficit court fees.

Accordingly, the MACMA is allowed awarding compensation of Rs.5,57,000/-. The rate of interest shall be at 7.5% p.a., from the date

petition till realization. The claimant is directed to pay deficit court fee or tl lower court may deduct the amount required for deficit court fee out of tl amount deposited by the respondent. However, in the circumstances, n costs.

As a sequel, the miscellaneous petitions, if any, pending in this appe shall stand closed.

B. CHANDRA KUMAR,

Date: 14.11.2014
Nsr

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[1] (2013) 9 SCC 54